

REMARKS

Claims 1, 14, and 34-57 are now pending in the application. Minor amendments have been made to the claims to simply overcome the rejections of the claims under 35 U.S.C. § 112. The amendments to the claims contained herein are intended to broaden the scope thereof or are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

The Applicants submit that Claim 14 has never been cancelled or withdrawn and is still pending in the present application. No rejections to Claim 14 have been raised, and as such, is in condition for allowance.

REJECTION UNDER 35 U.S.C. § 112

Claims 44 and 45 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: beads and the claimed apparatus (array of reagent dispensers, gate mechanism, first support, second support). This rejection is respectfully traversed.

Minor non-narrowing amendments have been made to Claim 44 to overcome this rejection. Claim 44 now recites, "a plurality of bead lots, each lot comprised of a plurality of substantially similar beads carrying a respective one of said different reagents and moveable through said outlet region." The cooperative relationships have

been clarified between the bead lots and some other recited portion. Therefore, Claims 44 and 45 are in condition for allowance.

DOUBLE PATENTING

Claims 1, 34-57 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-30 of U.S. Patent No. 6,432,719.

Although the U.S. Patent No. 6,432,719 and the present application are directed to similar arts, the Applicants respectfully disagree with the Examiner's assertion that the presently pending claims are obvious in light of the claims issued in the U.S. Patent No. 6,432,719. The Examiner appears to be reading in the various elements of dependent claims into the independent claims as presently pending. The Applicants respectfully disagree that the scope of the presently pending claims is obvious in light of the claims of the issued '719 patent. Each of the claims cited by the Examiner in the '719 patent include recitations that are not included in the presently pending independent claims. For example, independent Claim 6 recites "an addressable array of reagent dispensers wherein said addressable array includes a rack having an array of at least 100 reagent dispensers . . . wherein said dispensers are elongated containers, each having a longitudinally extending passageway configured to receive and hold respective agent." Independent Claim 25 recites "a detection assembly". Independent Claim 29 recites "an electromagnet disposed below said gate mechanism". None of these recitations are included in any of the presently pending independent claims. Therefore, the Applicants submit that the presently pending claims are not

obvious in light of those issued in the '719 patent. Therefore, the Applicants request that the Examiner remove the double patenting rejection and indicate that each of the presently pending claims are not obvious in light of the claims issued in U.S. Patent No. 6,432,719.

The Applicants, however, reserve the right to overcome this rejection with a Terminal Disclaimer.

REJECTION UNDER 35 U.S.C. § 102 AND § 103

Claims 1, 34-35, 42-45, 50-51 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Astle (U.S. Pat. No. 5,525,302). Claims 36-41 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Astle. These rejections are respectfully traversed.

Independent Claim 1 recites "a first support disposed below said array; and a second support mounted on said first support, said second support having a holding area for receiving a plurality of receptacles". Independent Claim 34 recites "a first support disposed adjacent to said array; and a second support mounted on said first support, said second support having a holding area for receiving a plurality of receptacles". The Applicants respectfully disagree with the Examiner's interpretation of Astle, having a first support and second support such as that recited in independent Claims 1 and 34. In particular, Astle teaches that a sample tray 24, 26 can be moved with a scissor arm. Nevertheless, the x-y platform only moves the sample trays left and right and is not interconnected with a scissor arm. (See Astle col. 7, Ins. 14-33.) Thus,

Astle does not teach a first support mounted and a second support mounted on the first support.

Further, independent Claim 1 recites “wherein (i) said first support is variably positionable, permitting placement of a fixed target region thereof directly under any selected one of said dispensers in said array, and (ii) said second support is variably positionable, permitting placement of any selected target site of said holding area directly over said fixed target region”. Similarly, independent Claim 34 recites “wherein (i) said first support is variably positionable to permit placement of a fixed target region thereof in alignment with any selected one of said dispensers in said array, and (ii) said second support is variably positionable to permit placement of any selected target site of said holding area in alignment with said fixed target region. Astle does not teach a first support variably positionable for placement of a fixed target region in alignment with a dispenser and an array in addition to a second support that is variably positionable to permit placement of a selected target site in alignment with the fixed target region where the second support is mounted on the first support. Therefore, Astle does not teach each of the elements of presently pending independent Claims 1 or 34. Therefore, independent Claims 1 and 34 are in condition for allowance in light of Astle, as are each of the claims that depend directly or indirectly from independent Claims 1 or 34.

Further, Astle specifically recites that 96 hollow pistons are laid in an 8 x 12 configuration on 9 mm centers to complement a 96 well laboratory tray. (See Astle col. 6, lns. 27-29 and 50-53.) Astle does not teach or suggest that any other number of hollow tube pistons or laboratory well trays can be used. Therefore, the Applicants submit that Astle does not teach or fairly suggest having more than 96 wells or hollow

pistons. Therefore, Astle cannot fairly suggest or render obvious any number greater than 96.

ALLOWABLE SUBJECT MATTER

The Examiner states that claims 46, 48, 49, 52-53 and 55-57 would be allowable if rewritten in independent form.

At this time, the Applicants have amended Claims 48 and 56 to include the relevant subject matter of the base claim and any intervening claims. Therefore, Claims 48 and 56, and each of the claims that depend directly or indirectly therefrom, are in condition for allowance. Although the Applicants have not elected at this time to amend any of the objected to Claims 44-46, 49, 52-53, 59, or 57, the Applicants reserve the right to do so in the future to place these claims in independent format to make them immediately allowable.

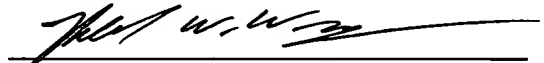
The Applicants submit that Claim 14 has never been cancelled or withdrawn and is still pending in the present application. No rejections to Claim 14 have been raised, and as such, is in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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